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A History of the Council of

the North under the Tudors & Stuarts

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A HISTORY OF THE COUNCIL OF THE NORTH
UNDER THE TUDORS AND STUARTS

BY

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A. B. University of Illinois, 1912

THESIS

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TABLE OF CONTENTS

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Chapter	Page
I. Introduction	1
II. The Pilgrimage of Grace and the Establishment of the Council of the North	8
III. The Members and Functions of the Council	19
IV. The Development of the Council and Its Abolition .	39
Bibliography	45



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CHAPTER I

INTRODUCTION

(A Brief Survey of Social Conditions in England in the Early Sixteenth Century.)

The sixteenth century marks a transition from the medieval to the modern world, and this fact is nowhere more significant than in the history of the English nation. During this period England was almost completely in the hands of the Tudor family; and that family stands out very clearly in English history as initiating several national movements, which were destined to cause the comparatively unimportant island kingdom to enter the area of international affairs.

The Renaissance was the first of the great European movements to affect England, but there it was overshadowed by the new spirit of inquiry which grew out of the revival of learning. As in Europe, the real power was a growing individualism, which made a conservative reaction difficult. The best genius in the literary world was absorbed by the great religious awakening which followed; and the radical reforms which were instituted as a result, caused the movement to be known as the Reformation. Parallel to the religious struggle was an economic revolution, which swept western Europe and England. The open-field system of agriculture came gradually to be supplanted by convertible husbandry, just as at a later date the latter was superseded by rotation of crops.⁽¹⁾ The transition was accompanied by much needless suffering among the poorer classes, and in England es-

(1) Ashley, W. J: Introd. to Eng. Econ. Hist. & Theory, I, ii, p. 102

pecially became a very significant social problem.⁽¹⁾ The increasing growth of international trade and commerce led further to the development of sea-enterprise on an unprecedented scale, which was followed by exploration of new lands, and later by the founding of colonies.

The Tudors were very jealous of rival rulers and desired to occupy a conspicuous position in the eyes of the world, which they considered fitting to the rank of rulers of such a growing kingdom as their own. Such a position could necessarily only be attained by taking a very prominent part in Continental affairs; and with a strong and well-organized government at home, it was natural that they should turn their attention to more distant fields. Diplomacy is a subtle game, which requires great tact and skill to play successfully; and because the Tudor family, especially Henry VIII and Elizabeth, were masters of these arts, they were unusually well qualified to fill the position which their ambitions led them to desire.

Through the activity of Henry VIII, the religious awakening in England, at first took the form of a series of changes in the government of the church. The country was removed from the jurisdiction of the Pope and the king was made the supreme head of the national church. The revolt grew out of a strong opposition to those religious customs and conventions which seemed to have lost a justification for their existence. Furthermore, the apparently inviolable power of the papacy had been shaken by religious controversies, and the christian countries had become

(1) Fish, Simon: *Supplication of Poore Commons*, pp. 96-102.

hopelessly divided on questions of its supremacy, as well as on the principles and doctrines of the church. During the Middle Ages the Pope ceased to be purely a spiritual ruler, and constantly made efforts to extend his temporal power.⁽¹⁾ He not only interfered in international politics but frequently adopted a partisan attitude. This was particularly true of the period of the Great Schism, when for over fifty years there were two popes, one of whom was a Frenchman, living in France at the time when that nation was at war with England. The papacy gradually became more corrupt, and was finally forced to make "concordats" or compromises with one after another of the great sovereigns. These agreements were characteristic of the century preceding the Reformation. The spirit of corruption which invaded the church spread very rapidly from the highest to the lowest branches.⁽²⁾ The Papal Registers give glaring evidence of this fact by its many grants of indulgences and dispensations. The most criminal offences on the part of members of the clergy are there excused and frequently pardoned.⁽³⁾ Also the provision made for the protection of criminals among the clergy, by means of the institution of benefit of clergy, show a decided decline in the moral element of the church. This general laxity in the manners and conduct of the clergy gradually caused them to lose their position of both intellectual and spiritual pre-eminence.

Because of the ever increasing lack of sympathy between the English church and the papacy an absolute break with the Roman church was possible. The fact that it occurred at just the time

(1) Starkey, Thos.: Dialogue Between Card. Pole and Thos. Lupset.

(2) Fish, S.: Supplication for the Beggars.

(3) Papal Registers, V, pp. 173,572; VII, p. 377.

it did, however, was due to certain political and diplomatic conditions which brought about a definite breach between the Pope and King Henry VIII. Because the Pope refused to act in accordance with the wishes of Henry and annul the latter's marriage with Catherine of Aragon, the king decided to repudiate the papacy altogether and establish the church of England on a purely national basis. He then subjected the church to the civil power, which was, of course, himself; and with the aid of an obedient Parliament, inaugurated a series of laws, whereby all connection between England and Rome was severed, and the revenues which had formerly been granted to the pope were given to the king.⁽¹⁾ The next step was to destroy the strongholds of papacy, that is, the monasteries. Accordingly, the lesser monasteries were dissolved in 1536, and during the next four years the greater ones gradually fell. Many of them had become panic-stricken in the general movement and the abbots voluntarily dissolved them; some were bribed to give up their monasteries; and in many others some of the monks were becoming protestant and quarrelled with each other, so that the monastery went to pieces for lack of support. But in spite of their decreasing importance, they were still in some sections of the country the one element of culture and advancing civilization. It was the monasteries, such as they were, that constituted the only educational and charitable institutions in the rural communities; and their destruction was considered by many persons a real oppression.⁽²⁾ While there is no doubt that

(1) 23Hen. VIII c.20; 24Hen. VIII c.12; 25Hen. VIII c.19,20,21; 26Hen. VIII c.1,2.

(2) Fish: *Supplication of Poore Commons.*

they served a practical purpose in providing free tables and lodgings and in assisting in the care of the poor and impotent, the much repeated tales of the monks feeding the poverty-stricken populace are probably not only exaggerated but belong to an earlier period.

During the first years of the Reformation in England the clergy were silenced by charges made by the king; it was intimated to the bishops and all of the clergy that they had incurred the penalties of praemunire for having previously accepted Wolsey as papal legate. It was true that the clergy had done so, but very unwillingly and only at the request of the king himself. No one quite understood the mysteries of praemunire, and the king realized how much he might use it for ambitious purposes.⁽¹⁾ Convocation, terrified by this threat from Henry, gladly passed anything that he desired, and at his request even went so far as to bind itself not to enact any new canons or ordinances without his approval.⁽²⁾ Attempts were made by the government to crush all opposition to the new order of things, and apparently England became firmly anti-catholic. Such a radical change could not, however, be instantly inaugurated in a conservative country like England, and in questions of dogma there continued to be much dissatisfaction and dissension.

The social disturbances which occurred about the same time that the country was involved in a religious struggle, became a very serious matter in the reign of Henry VIII. Feudalism was breaking up and giving place to new methods of land cultivation and speculation; and exploitation of the land on purely business

(1) Letters and Papers, IV, 6488, 6699. (2) 25 Hen. VIII, c.19

principles, to a large extent, followed as a natural result from the improved condition of capital and commerce. The new agrarian system was introduced by means of enclosures, which made cultivation on a large scale possible. Furthermore, the increasing demand for wool made sheep-husbandry very profitable, and great tracts of land were enclosed for this purpose. Because of the decrease in tillage the national food-supply began to be threatened; also the number of people thrown out of work enlarged the already great numbers of the unemployed. Parliament became alarmed and passed laws condemning enclosures.⁽¹⁾ In 1517, royal commissioners were appointed to inquire into the depopulation of houses and villages, and to make investigations concerning the conversion of arable land into pasture.⁽²⁾ While the area covered by the commission indicated that the sphere of activity was largely centered about the district north and west of London, the movement was a serious one even on a small scale, and it continued to increase in importance during the sixteenth century.

The period of enclosures and evictions mark the close of the manorial economy and therefore the end of serfdom in England. Thus the agricultural difficulties, which increased in spite of the commissions to lessen them, have a considerable interest. They are inseparably linked with the problem of the unemployed, and thereby gain increased importance; for it is among persons of this class that we find greatest social and economic discon-

{1} 6Hen.VIII.c.5; 24Hen.VIII.c.4; 25Hen.VIII.c.13; 5&6 Edw.VI.c.5.
(2) Mr. Leadam's edition of the "Domesday of Enclosures" contains a careful study of the report of this commission which throws considerable light on the character and extent of the agrarian difficulties.

tent. With one-tenth of the population idle and wandering about the country, it is small wonder that revolts occurred periodically during the reigns of the Tudors, and that the governing classes became so disturbed that they passed many laws against enclosures and vagabondage.

The uprisings of greatest significance were those occurring in the north and west, where the most conservative elements in English society existed and where traditional faith and ideals were strongest. Of the rebellions in these districts by far the most important, both in its strength and in the changes produced as a result of it, was the Pilgrimage of Grace, which broke out in Yorkshire in 1536 and developed so rapidly that it soon drew all the northern counties into the movement.

CHAPTER II

THE PILGRIMAGE OF GRACE AND THE ESTABLISHMENT OF THE COUNCIL OF THE NORTH.

After the execution of Queen Anne Boleyn on the 19th of May, 1536, the Catholics were everywhere hopeful, but their bright prospects were destined to a very short life. Not only was a definite creed, known as the Ten Articles, established by the king, but Cromwell issued a series of injunctions to the clergy which was a sufficient departure from the orthodox dogma to cause considerable uneasiness. In addition to absolutely repudiating the pope, they aimed at promoting a general knowledge of the Scriptures, and a religion based on faith with little regard for external show. Furthermore, all inefficient parish priests were to be relieved of their cures. The most notable feature of the Articles was the implication that the more unnecessary and inconvenient church institutions were liable to modification; but interpreted in the light of the injunctions of Cromwell and the dissolution of the monasteries, it was very evident that an entirely new church policy was being introduced.

The spirit of distrust which was rapidly developing among the Catholics was heightened in the autumn of 1536, with the issue of three commissions. One commission was to levy the second part of the subsidy, voted in 1534, which was $3\frac{1}{2}$ per cent. on all incomes of more than 20 a year; another was to carry out the act of dissolution of the smaller monasteries, and the third was to enforce the Cromwellian injunctions among the clergy. All

kinds of rumors accompanied the visits of these three groups of officials, and the country was filled with suspicions of threatening intentions of the government. It was said that there was to be only one parish church within a radius of five miles allowed to remain; that all church ornaments were to be taken away; and that a fine was to be collected for weddings, christenings and burials.
⁽¹⁾

No county was probably the scene of so much confusion upon the dissolution of the monasteries as were the districts of Lincolnshire and Yorkshire, and the growing discontent in this region was no doubt increased by the woeful tales of the dispersed monks. At all events the smouldering irritation burst into an open flame in the town of Louth, in Lincolnshire, on the first day of October, when the news arrived that the king's commissioner was expected the next day to hold a visitation there.
⁽²⁾ The silver crosses and other ornaments of the church were put under a strong guard until morning, when about one hundred of the townspeople collected. The commissioner, John Heneage, was seized and made to swear allegiance to God, the king, and the community. The bishop's chancellor was then taken, his registers were burned, and he together with the priests who had come to attend the bishop's court, were also sworn into the movement. The next day mass was celebrated in the Louth church, and a number of men then marched to the neighboring town of Caistor to seize the commissioners of the subsidy who were reported to be there.

(1) L. & P., XI, 786.

(2) Ib., 563.

Hearing of the fate of Heneage in Louth, the commissioners fled from the place, but were later induced to return and to take the oath of allegiance.

The most remarkable thing about the uprising was that at no time was it really rebellious in character. It was not aimed against the king, the government, or any of the established institutions of the country; but rather against the new policies of the government and the ministers who inaugurated them. A repeal of the religious changes was demanded; also the restoration of the monasteries, the removal of such low-born advisors as Cromwell and Rich, the banishment of heretics like Cranmer and Latimer, and a provision that no taxes be exacted except for the defence of the country in time of war.⁽¹⁾ The whole county was drawn into the movement; wealthy men and members of the gentry were threatened with execution if they did not give it their support. The rising failed, however, for want of a leader; although from London to the northern border people were interested in it and wished it success. In spite of brief intervals of activity, the demonstration gradually wore itself out, and when the Duke of Suffolk arrived with troops, there was no force to oppose.⁽²⁾ Henry's answer to the petition of the rebels reprimanded them for their boldness, and commanded them to disperse their forces and deliver the leaders to the king's lieutenant.⁽³⁾ After several months of careful investigation, forty-six of the principle insurgents were executed.

(1) L. & P., XI, 786

(2) L. & P., XI, 690-1

(3) Ib., 826

While the uprising was dying out in Lincolnshire it had acquired rather serious dimensions further north. Copies of the Lincolnshire articles were in the hands of some of the Yorkshire gentry.⁽¹⁾ This insurrection differed from the other, however, in having a very capable leader. Robert Aske, a young lawyer had been forced into the command of the movement on his return from Lincolnshire, where he had rather unwillingly been induced to assist the rebels. For the next few months there was probably no more prominent figure in England than this Yorkshire lawyer.⁽²⁾ From the beginning of the insurrection in Yorkshire it had the appearance of a religious pilgrimage, and the pilgrims marched behind crosses taken from the parish churches or monasteries.⁽³⁾ They were sworn not to enter this pilgrimage, which was called the "Pilgrimage of Grace", for the commonwealth, "but only for the maintenance of God's Faith and Church militant, preservation of the King's person, and purifying the nobility of all villein's blood and evil counsellors; to the restitution of Christ's Church and the suppression of heretic's opinions".⁽⁴⁾

While it is undoubtedly true that religious discontent was the main factor in causing the uprising, it was by no means the only grievance; economic and political conditions caused considerable resentment as well. The Statute of Uses⁽⁵⁾ passed the year before was particularly objectionable, since it increased the difficulty of providing younger sons with sufficient endow-

(1) Ib., 729

(2) Eng. Hist. Review, V, 330-345; 550-573

(3) L. & P., XI, 729

(4) L. & P., XI, 705

(5) 27Hen. VIII.c.10

ments. By the common law it was impossible for a man to dispose of his estate by will. To evade this restriction the custom had arisen of making feoffments to the use of, or in trust for, other persons than those to whom legal possession was given. To prevent this evasion the Statute of Uses was passed. The stigma of illegitimacy which still rested upon the Princess Mary, and the power entrusted to the king to provide for the succession of the crown were also matters of deep offence to the Yorkshire commons. In some districts the objections to enclosures were particularly strong; while in others opposition was made to dues exacted upon certain legal transactions. The latter was especially true in Cumberland and Westmoreland, where "gressums"
⁽¹⁾ or heavy fines were levied on the renewal of leases.

As in Lincolnshire, the movement was a demonstration protesting against the policy of the king's counsellors, and meant no disloyalty to the king.
⁽²⁾ The leaders had no intention of resorting to arms unless petitions to the king failed to secure a redress for their grievances.

The one man in the north counties who was expected to preserve the authority of the crown failed to do his duty, and in consequence, the rising had several weeks in which to develop before any efficient steps were taken to suppress it. The chief military official in the region north of the Trent River, was Lord Darcy of Templehurst, warden of the forests; and while he was a thorough loyalist with a record of long and honorable

(1) L. & P., XII, 478, 687

(2) Ib., XI, 1182, 1245

service, he did not approve of the new developments in the government policy. He hated Cromwell as he had hated Wolsey; he strongly disapproved dispoiling the monasteries; and he was intolerant of anything suggesting heresy. After learning that there was a rising in the northern counties, Lord Darcy sent word to Cromwell and the mayor of York; he then shut himself up in Pomfret Castle, where he was joined by the archbishop of York and some other members of the nobility and gentry.⁽¹⁾ Unfortunately the castle had only provisions sufficient for a few days and the town refused to supply more. It would have been extremely difficult to carry out a very effective resistance, but it is doubtful if the surrender was due wholly to military reasons. In an interview with Robert Aske, the latter vehemently declared the grievances of the people, and threatened an assault the following day if the castle did not capitulate. After much vain pleading, Lord Darcy decided to accept the conditions offered by Aske, and on October 19th he surrendered the castle. After this success, several thousand recruits flocked to the pilgrim army. Collecting his large forces, Aske started on his march southward, headed by monks bearing as a banner a standard marked with the five wounds of Christ, while each of the pilgrims had the badge of the five wounds on his sleeves. They do not seem to have been well organized but did achieve some notable successes. The two most important towns of Yorkshire, York and Hull, were occupied; several monasteries were restored; and by the end of October the army had advanced south of the Humber as far west as Doncaster,

(1) L. & P., XI, 627, 664, 563

where the king's forces were being collected under the leadership
(1)
of the Duke of Norfolk.

At this time had Aske engaged in battle there could be no doubt of his success, but he did not wish to do so, and suggested a compromise instead. Norfolk, knowing that a conflict at this time was reckless, was perfectly willing to treat with the pilgrims, thus hoping to gain time in which to strengthen his forces. A series of articles were drawn up to be sent to London, and it was decided that both armies should be dissolved and a truce declared until an answer could be received from the king. This reply, which was dictated by Henry himself, is a very interesting document, and met the complaints of the pilgrims point by point. In regard to the question of maintenance of the faith, and the objections to the church and its liberties; he stated that the terms were too general to answer, but that he had done nothing which might not be defended by the laws of God and man, and wondered that ignorant people should go about to instruct him in what the right faith should be. Concerning the objections to the laws, the commonwealth, and directors of laws, he explained that never before had there been so many good and beneficial laws, nor had any king kept his subjects longer in peace and wealth and defended from outward enemies. Furthermore, he considered that the members of his council were just and true executors of the law; but he was willing to proceed against them if anyone could prove the contrary. In conclusion, pardon was offered to the

(1) L. & P., XII, i, 86

insurgents if ten of the ringleaders were delivered to justice.⁽¹⁾

Further trouble might have been avoided had both parties kept the truce; but unfortunately they did not, and each suspected the other of having secretly attempted to steal an advantage. With increasing distrust and suspicion, the leaders of the pilgrimage met at Pomfret on December 2nd to again draw up articles, but this time a parliament at York was insisted upon, as well as the repeal of the treasons statutes and the enforcement of laws regarding enclosures.⁽²⁾ Aske and his friends carried these articles to Norfolk at Doncaster on the 5th of December. The Duke knowing that his opponents were too strong to be overcome by arms, promised a free pardon from the king and also a parliament for the north of England. The pardon was gratefully accepted, and for the second time the pilgrimage was dispersed; although in neither case had it had any real assurance that its purpose would be attained.

It was very natural for a king like Henry VIII to consider the terms offered by the Duke of Norfolk as a blot upon his dignity; and we may be sure that he had not the slightest intention of granting a free pardon or a free parliament to rebels who had criticized his policy and challenged his authority, unless he were compelled to do so by absolute force. Moreover, being perfectly well aware of the uselessness of taking any decided step just at this time, he concluded that the politic thing

(1) L. & P., XI, 957

(2) Ib., 1246

to do under the circumstances was to summon the leader, Robert
(1) Aske, to a personal interview. When requested to do so, Aske told the whole story of the movement, and in return received the king's promise that a parliament with free elections would be held in York.⁽²⁾ Aske then returned to the north with good hopes for the future, and succeeded in disbanding a large number of the commons; although they were still suspicious and kept constantly on the alert. In this they were undoubtedly justified; for in spite of the king's promises, the garrisons were being constantly strengthened, and accompanying the pardon was a new oath of allegiance which showed very clearly that the grievances would not be remedied. Enraged at this breaking of faith, the pilgrims again took up arms, and this time arranged to capture Hull and Scar-
(3) borough. The enterprise failed, for now the royal army was strong enough to cope with its opponents. Aske and Darcy did all in their power to prevent this third rising, and they did succeed in keeping it down to such a stage that the government was able to entirely suppress it. The king now argued that the pilgrims had broken their pledge, and the promises of pardon no longer held; also that he was free to punish all that had taken part in it. Darcy and Aske were sent to London as prisoners; and because it was proved that they still cherished hopes of a parliament for the north, they were executed as traitors. Several abbots and friars suffered likewise, and with the destruction of its leaders the pilgrimage came to an end.

(1) L. & P., XI, 1306

(2) Ib., XII, i, 103

(3) Ib., 138

The royal vengeance did not stop with the principal leaders, however, and for many months a perfect reign of terror existed in the north.⁽¹⁾ Seventy-four men were hanged at Carlisle in February, 1537, many more at York, and still others at Durham,⁽²⁾ Hull, and several more important towns.⁽³⁾ Twelve men had been appointed to attend the Duke of Norfolk, as a council, and with him make journeys through the north country inquiring into the effects of the insurrection, and holding sessions to determine causes of justice.⁽⁴⁾ The idea of a council was not a new one. Special commissions had been previously appointed from time to time when disturbances arose in the outlying counties; also in a paper written by Cromwell in June, 1535, there was a suggestion that a council for the northern counties be established.⁽⁴⁾ Furthermore, the principle of government by Council was very popular in the Tudor period. Whenever possible, the different parts of the realm were brought under the direct control of the council, usually by the establishment of special commissions in various sections. The system was continued by other monarchs, until, by 1640, over a third of England was ruled by the Councils of Wales, of the North and of the West.

These courts, for such they really were, were similar in formation to the Privy Council, and were to a certain extent dependent upon it. Therefore to understand their history it is necessary to briefly follow the development of the Privy Council during this period. The powers of the Council were very much

(1) L. & P., XII, i, 1156, 1285; ii, 204

(2) Ib., i, 498, 410, 416

(3) Ib., i, 98

(4) Ib., VIII, 515, 872; XI, 1363

increased as time went on, especially on its judicial side, through the activities of the Star Chamber. The spirit of the sixteenth century was one of interference, and the council acted on the strength of the prerogative of the crown. It interfered not only in matters of religion and politics, but also in questions of labor, and even in matters of private life.

After having inaugurated a veritable assize of blood in the northern counties, the Duke of Norfolk, in September, 1537, left the Council of the North under the direction of Cuthbert Tunstall,
⁽¹⁾ Bishop of Durham, who had been appointed president. There was no longer any show of resistance to the king; the country had been completely terrified into submission. Trees along the highways bore many victims suspended in chains or ropes, and the strict maintenance of martial law prevented sympathetic friends or relatives from removing them.
⁽²⁾

(1) L. & P., XII, i, 1199, 1239; ii, 228

(2) L. & P., XII, i, 1214

CHAPTER III

THE MEMBERS AND FUNCTIONS OF THE COUNCIL

Thus it was that at York, the second city of the realm, a council was established, which for more than a century constituted the machinery of an effective and orderly government for the northern district. There were five counties included within its jurisdiction; Yorkshire, Durham, Northumberland, Westmoreland, and Cumberland. This council was a committee of the Privy Council and was given powers almost as extensive. The work of the local council, however, was constantly submitted for approval and it was kept strictly in touch with the central authority. But in regard to the interests of law and order, the council had almost unlimited jurisdiction and exercised practically all the authority of the Privy Council, with the exception of powers of initiative.

Mr. Fisher, in his volume of the Political History of England, says that the council was in the main, at the time of its establishment, a plain middle class committee, composed of a president, four knights, and seven gentlemen.⁽¹⁾ The number and rank of the members, however, seems to have varied from time to time, and it is difficult to make any statement which would cover the entire period of its history. Furthermore, in addition to the regular members who acted as justices and advisors, there were examiners of the witnesses, a sergeant-at-law, a secretary,

(1) Fisher: Pol. Hist. of Eng., 1485-1547, p. 417

clerks, messengers, and lawyers who practiced before the council. All of these offices did not exist at the beginning, but were appointed from time to time. For example, the office of examiner did not exist until the latter part of the sixteenth century. In 1597 the Queen authorized the Lord President and council to appoint one or more examiners, for the purpose of examining the witnesses produced before them; and two were accordingly appointed, one for the plaintiffs and one for the defendants. In the report of these appointments it is stated that this office had
⁽¹⁾
been established about twenty years.

The council derived regular salaries from the crown, which in all amounted to 1200. By far the most important member was the president, and his salary alone amounted to 800. Next in importance to the president appear to have been the chief nobles of the northern counties, then four or five knights, the sergeant-at-law, and finally the secretary and clerks. The only way we have of ranking the councillors is according to statements made regarding their salaries, and the number of servants allowed them.
⁽²⁾

The duties of the president were very numerous; and among the councillors he was given a position of honor. The meetings of the council were called by the president; and when present he was the presiding officer, with the power of adjourning the sessions whenever he saw fit.
⁽³⁾ His advice was sometimes asked re-

(1) Cecil MSS., Pt. VII, p. 126

(2) L. & P., XII, ii, 102; XIV, ii, 239

(3) Cecil MSS., V, 506

garding appointments, and at times he was even allowed to fill
(1) vacancies when they occurred. As the council became more
firmly established the authority of the president was increased;
until in 1544 he was given the power of veto upon all action
taken by the council, and was also permitted all homage due to
the King's own person with the exception of kneeling.⁽²⁾ In
later years, with the increasing dependence of the church upon
the state, the ecclesiastical officials, including the arch-
bishops, came to hold a comparatively unimportant position in com-
parison with the civil officials. The president of the council
of the north, therefore, occupied a position of superiority among
all the royal officials in that district, including the arch-
bishops of York. An interesting dispute arose over the question
of precedence, between the president and the archbishop, in the
year 1620; but the latter was forced to submit, and was even com-
manded to remove his pew from the church because it was built be-
fore that which the president occupied; unless he was willing to
⁽³⁾ resign it to his rival.

One of the most common duties of the president was to send
the members of his council to the various towns in the north,
where they would hold a court and administer justice. These
sittings were known as "oyer determiner" and "gaol delivery"; the
former meaning sessions held by judges, who had been given autho-
rity by means of royal commissions which empowered them to hear

(1) Dom. Cal., Add., 1580-1625; p.85 : Dom. Cal., 1623-25; p. 44

(2) L. & P., XX,i,116

(3) Dom. Cal., 1619-23; p.168

and determine cases of treasons, felonies, and misdemeanors, and the latter the trial of criminals imprisoned within the gaol at the time of the sitting. Under ordinary circumstances it appears that from two to four councillors were sent upon each of these quests, and in some cases the president himself accompanied them. If the assizes were in session at the time the justices would assist the councillors in the performance of their duties.⁽¹⁾ Reports of the sittings were sent to the government in London, frequently by the president with the signatures of about five councillors, although the exact number varied and there were sometimes as many as eight or as few as two.⁽²⁾ Sessions were held twice a week; but the length of time spent in any one place was largely determined by the amount of work to be done. It was not unusual to stay as long as a month in one town, as the reports made by the council show. In a letter written at Newcastle, on September 21st, 1539, the president remarked that they had been there since August 25th, having spent their time consulting with the officials there and administering justice.⁽³⁾ In another report sent by the council from York, August 12, 1545, it is stated that they had been there a whole month and determined many causes, having on one day been assisted by the justices of assize.⁽⁴⁾ There were times when the quest lasted as long as two months, but this was very infrequent.⁽⁵⁾

(1) L. & P., XVI, 1283; 1404

(4) L. & P., XIV, ii, 203

(2) Ib., XIII, ii, 1010; XX, ii, 109

(5) Ib., XX, ii, 109

(3) Ib., XIV, i, 576; XX, ii, 109;

(6) Ib., XIII, ii, 1076

The business of the council was carried on speedily and with despatch; in great contrast to the courts of our own country at the present time, when prisoners are held many weeks or even months before being brought to a trial, which is then frequently extended over a long period of time. The only cause for delay when a case was being tried before the council, however, arose when the judges did not feel that their instructions permitted them to make a decision without further advice. There seems to have been little thought of appealing cases to higher courts; a circumstance with which we are so familiar at present. The only mention of such a possibility is found in a proclamation, which was issued in September, 1541, by the Privy Council, and provided that anyone in the north, who was denied justice from the resident council or any other, might have an audience with the King and his council during his visit in York.⁽¹⁾ In the sixteenth century this was the highest court of appeal; for in spite of the growth of the law courts, the King in Council still retained a reserve of judicial power, and he continued to keep it even though many judicial functions were delegated to the new courts and councils which were formed. It would seem that the basis for such a custom lies in the argument, that any delegation of royal powers did not in any way diminish the authority of the crown to exercise them.

It is impossible to give an exact statement of the duties and functions of the council in the north, but by studying the

(1) L. & P., XVI, 1190

instructions which it received from the government at various times we can reach some general conclusions. On the whole, it is safe to say that the president was expected to receive the advice of his councillors, who were supposedly learned men; and with their assistance deal in causes for the quiet of the country.⁽¹⁾ Together they were to apprehend and bring to trial such as had committed robberies, murders, treason, and other offences against the security of the realm. Furthermore, they were to supervise the collection of the revenue, especially the benevolences; to be responsible for keeping up the fortresses and supplying them with ordnance; to aid the commissioners in dissolving the monasteries; to receive complaints regarding retainers and enclosures; to prevent extreme dues and rents; to look after military affairs, and in case of need levy armed men.⁽²⁾ Religious offenders, including papists and heretics, were to be carefully watched, hunted, and brought to justice; also the laws regarding the Bishop of Rome's usurped power and the abrogation of holy days were to be enforced.⁽³⁾ The court was in addition to have jurisdiction in local civil cases. In short, the council had practically absolute charge of the government of the northern counties, and had control over the county and border officials stationed there, subject only to commands from the King and the Privy Council. We find many instances of the exercise of this supervision over subordinate officers, and of the recognition of

(1) L. & P., XII,i,86; Cecil MSS.,V,506

(2) L. & P., XII,i,98; XX,i,116

(3) Ib., XX,i,116

the authority of the council both by the Privy Council and the King.

Because of some inattention to duty on the part of the deputy wardens of the Marches, the council, during a session at Darneton, in December, 1538, admonished them to be more diligent in their duty than previously, and to render justice to both sides without respect to persons.⁽¹⁾ During a period of unusual difficulty with outlaws in Tynedale, John Heron, the royal keeper, was instructed by the council at York, to proceed more actively in the prosecution of the rebels, in accordance with the trust imposed in him.⁽²⁾ The same officer was shortly afterwards directed, because of lack of money, to discharge all the garrison located there with the exception of fifty men.⁽³⁾ In recognition of this authority of the council over the other royal officials in the north, they sometimes came to it for advice when they were in difficulty. The keeper of Tynedale once wrote to the council requesting it to interpret for him a certain clause in a letter of instructions from the government.⁽⁴⁾ Another instance is the case of a sheriff in Yorkshire; in October, 1632, he came to the session which was being held in the city of York, and consulted the council in respect to the execution of a writ of injunction which he had received from the Court of Chancery.⁽⁵⁾ In this connection, it is interesting to note that the officers of the north sometimes received directions from the central government, and

(1) L. & P., XIII, ii, 1010

(4) Ib., 85

(2) Ib., XV, 85

(5) Dom. Cal., 1631-1633; p. 425

(3) Ib., 319, 362

so were not under the absolute control of the council even though they resided within the limits of its jurisdiction.

The respect in which the council was held by the government was shown in a variety of ways. Civil and criminal cases which came before the Privy Council were sometimes referred to the council at York, particularly if they related in any way to the north; also when disputes arose between the council and other royal officers, the council was almost invariably given the support of the government. One or two incidents will serve to illustrate the confidence which was placed in it. In February, 1541, upon receiving a complaint, from some members of the Guard, that the widow of a northern lord withheld certain offices from them, the Privy Council referred the matter to the council in the north for settlement.⁽¹⁾ Again, when the King was making preparations for his visit to York, his council wrote to the northern earls to have the gentlemen, appointed to attend them, to repair to York with their trains to meet the King, as the president and council in the north should determine.⁽²⁾ In military affairs, in particular, did the government depend upon exercise of judgment and responsibility on the part of the council; and it was sometimes given control over military affairs in the north as a direct agent of the government. In 1542, the King commanded the president to have his subjects ready to march to the border against the Scots if they should be needed.⁽³⁾ In a letter written by

(1) L. & P., XVI, 553

(2) Ib., 1084

(3) Ib., XVII, 650-1

the Queen, on December 5th, 1586, to the Earl of Shrewsbury, a Lord-Lieutenant, she commanded him to send whatever number of soldiers the president should require.⁽¹⁾ In 1596, the president and council were directed to make a levy of eighty horsemen, and exercise their own discretion concerning the number to be charged to each county.⁽²⁾ A number of years later, the Council of War ordered the northern council to render conformable certain persons who refused to do the necessary work for fortifying the town of Hull.⁽³⁾

A considerable part of the time of the council was taken up with religious difficulties; for the government used this body as a means of enforcing its church policy in that part of the kingdom. Very often seminary priests were arrested, and also many recusants. In the spring of 1538, three persons were executed for treason, whose crime was their religious convictions. One of them was a woman who had fasted "to an abominable intent" against the King and the Duke of Norfolk. Another was a priest who had interpreted prophecies; and the third was a Lancashire priest who, after having been forbidden by the curate of York to preach there, had nailed a copy of his sermon to the church door. The sermon was found to contain matter against the Act of Supremacy, and also against the King's marriage with Anne Boleyn.⁽⁴⁾ At times the King's ministers sent the names of suspected persons

(1) Dom. Cal., 1581-90, p.370-1

(3) Dom. Cal., 1638-9, p.471

(2) Cecil MSS., VI, 92

(4) L. & P., XIII, i, 705

to the council with instructions to search for them, or to investigate the case and settle whatever disputes had arisen. In February, 1540, such a case arose when two priests quarrelled over a vicarage in Northumberland, one of them holding it by force of an advowson given out of a monastery which had been recently surrendered to the crown. Cromwell wrote to the president of the north to call the priests before him and settle the matter.⁽¹⁾ In 1585, Lord Burghley sent a list of recusants to the president, with instructions to look for them.⁽²⁾ It seems that in religious matters, however, the council sometimes felt handicapped because of insufficient authority. In a letter written March 18th, 1540, sending information regarding two Sacramentarians, the president asked for his commission to inquire into heresy to be increased, as at that time it included only Yorkshire.⁽³⁾

Since the authority exercised by the council depended upon the instructions sent to it from the central government, it is evident that its prominence depended upon the favor of the crown. Because of this dependence the different functions of the council varied in importance from time to time according to the policy of the reigning king. Therefore, the functions themselves can be interpreted only by following the history of the council during the several stages of its development.

(1) L. & P., XV, 166

(2) Dom. Cal., 1581-90, p. 297

(3) L. & P., XV, 362

CHAPTER IV

DEVELOPMENT OF THE COUNCIL AND ITS ABOLITION

For a study of the development of the council, its history may for convenience be divided into three periods. The first, from the time of its establishment in 1537 to the death of Henry VIII in 1547, marks a period of very considerable activity, when the members of the council were ably supported by the government, and were urged to exercise their authority to secure peace and quiet in the north country. The second period, which included the years from 1547 to the death of Elizabeth in 1603, was until the last few years either one of comparative insignificance, or the council continued to exercise its functions with very loose relations with the general government and little interference from it, for there are records of very slight correspondence during these years. Towards the close of the century, however, the council became again prominent. The third and last period, which covered the years from 1603 to the time of its abolition by the Long Parliament in 1640, shows a gradual but very decided growth in the development of the council; especially after its re-organization in 1628, when it became an exceedingly strong and effective institution.

FIRST PERIOD

In October, 1537, the Duke of Norfolk was succeeded by Bishop Tunstall, who had been appointed president of the council.

He seems to have been a very efficient officer and through his efforts the subjugation of the north was completed. The people were terror-stricken by the many executions, and the last appearance of an insurrection was swept away. To prevent any new outbreaks growing beyond control a careful inspection of all the northern castles was ordered in 1538. During the first half of the latter year, there was a return to the vindictive executions which had marked the early months of the rebellion. It would be supposed that by this time the sins of the insurgents had been fully expiated; but not in the eyes of Henry VIII. A too decisive blow might have made enemies of all the world at once; and, what is even more important, occasional outbursts of severity would teach his subjects much better the folly of rebelling. In the spring of 1538, seventeen persons were executed at York, and, (1) in August, fifteen more in addition to three who were condemned. The crimes consisted of felonies, robberies, and high treason; the latter including religious offences.

In June, 1538, Robert Holgate, Bishop of Dandaff, a very capable man, became president. In the early months of his administration there was considerable trouble with outlaws on the northern border and also with the Scots, parties of whom sometimes ravaged the border country. The King's subjects, particularly in the region around Tynedale, frequently lost goods and cattle.⁽²⁾ The council of the north, having jurisdiction over

(1) L. & P., XIII, i, 705; ii, 156

(2) Ib., ii, 1095

that entire district, was the official body which directed activities there. A good illustration of the sort of correspondence which passed between the council and the border officials may be seen in a letter which the council wrote to Sir Reynold Carnaby, keeper of Tynedale, on September 21st, 1538. The council commended his proceedings in taking some Tynedale men, and asked him to keep them prisoners until the next month, when a consultation would be held with him at Darneton about them. He was also to take care that the adjoining community was not overrun by the outlaws, or the Scots of Liddersdale, preventing, if possible, communication with the Scots; and in addition attempt to trap some of the outlaws for the "fearful example of their accomplices".⁽¹⁾ In the meantime the council wrote to the King for instructions in the matter; and especially desired to know whether the suggested plan of the inhabitants of Northumberland should be adopted and the corn and goods of the outlaws burned as a possible method of ridding the country of their presence.⁽²⁾ Before any action could be taken regarding Sir Reynold Carnaby's prisoners, however, several of them died of a plague, due to the poor and unsanitary prison in which they were confined.⁽³⁾ It was while the council was holding this session at Darneton, that it summoned the deputy wardens of the West, East and Middle Marches, and admonished them to perform their duties more diligently and impartially. At the same time three of the councillors were holding a session at

(1) L. & P., XIII, ii, 404

(2) Ib., 414

(3) Ib., 1010

Carlisle, where they were assisted by the local justices. As a result of this sitting, two prisoners were condemned for high treason, because of having spread the rumor that the commons in the south were rebelling; another for illegal coining; and seven others for theft.⁽¹⁾ Capital punishment was evidently considered the most effective preventive of crime; for the number of persons executed for what are commonly considered misdemeanors is appalling.

These instances are sufficient to show that the council was rapidly coming to occupy a definite and responsible position as an instrument of government. By November, 1538, they asked the King for headquarters at York which would be more fitting to their position than those they were accustomed to occupy. Their request was that they might be allowed the former home of the Black Friars, which had at one time been a royal palace. They desired further that it should be improved with the stone, glass, and other valuable materials from the monastery of the Friars Augustine in York, so that a house might be made fit to receive the King when he should come.⁽²⁾ It was no uncommon thing to ask for the materials of which the monasteries were built, for when they were suppressed it was the custom to strip them of their valuables, particularly the lead on the roofs.

In civil as well as in criminal affairs, the inhabitants of northern England came to recognize the jurisdiction of the council established there. The case of a resident of Beverly well

(1) L. & P., XIII, ii, 1010, 1101

(2) Ib., 1038

illustrates this fact. In December, 1538, this man, Thomas Barton by name, wrote to Cromwell asking him to intercede in his favor with the northern council. Mr. Barton had married the divorced wife of Sir Henry Everyngham, who withheld her feoffment. The Archbishop of York had granted the divorce to Lady Everyngham, but soon after her re-marriage decided to revoke the decree. Cromwell, however, interfered and had the case removed from the archbishop's court.⁽¹⁾ It was one phase of the growing power of government by council to have the King, or his agent, take cases out of the ordinary courts and turn them over to his council. The Court of the Star Chamber was particularly active in this respect.

Bishop Holgate was an unusually efficient president. He was undoubtedly conscientious and endeavored to give the north a just and effective administration. In addition to his persecution of the outlaws in Northumberland and his careful supervision of the royal officers on the border, he took an especial interest in religious matters. It was President Holgate who asked to have his commission over heresy extended beyond the limits of Yorkshire, that he might more diligently suppress the evil.⁽²⁾ It was he also that reduced the garrison at Tynedale, but reorganized it in such a manner that it was still sufficiently strong to perform the duties forced upon it.⁽³⁾ Not even the best of the presidents, however, was able to carry on the functions of his office without some criticism and opposition. In November, 1542, Bishop Holgate

(1) Ib., 1038

(2) L. & P., XV, 362 (cf. above, p. 30)

(3) Ib., 319, 362 (cf. above, p. 27)

was charged with negligence, but was able to defend himself and refuted the charges.⁽¹⁾ His reputation does not seem to have suffered because of them, for a year had scarcely passed until he was given additional authority and honor. The instructions which he received in May, 1544, gave him an absolute veto on all actions of the council, and further provided that he should be allowed the same reverence, with the exception of kneeling, that was paid the King's own person.⁽²⁾ At the same time more careful orders were given to the council with respect to the treatment of malefactors, to attendance at court, and to powers in general. This was a very fortunate and appropriate action, for the council was frequently handicapped by a lack of explicit instructions.

Further evidence of the increasing prestige of the council is found in directions issued in March, 1545, by the King to the sheriffs of Northumberland, Cumberland, Westmoreland, Durham, and Newcastle, ordering them to make a general proclamation of the first day of a session to be held there.⁽³⁾ About the same time complaints were beginning to be made against oppressions of the council. In July, 1545, the King received a supplication from Robert Cripling "touching oppressions to be administered to him by the archbishop of York"; Bishop Holgate had been appointed archbishop on the death of Archbishop Lee in 1544.⁽⁴⁾ It is quite possible that the council was at times slightly oppressive.

(1) Ib., XVII, 1040

(2) Ib., XX, i, 116 (cf. above, p. 23)

(3) L. & P., XX, i, 434

(4) Ib., 1157

Nevertheless, there can be no doubt that in general it did endeavor to administer justice impartially, and that it was responsible for the improved condition of the north. An increased respect for peace and order was gradually taking the place of the general spirit of lawlessness which had previously prevailed.

SECOND PERIOD

With the death of Henry VIII, the council of the north ceased to be a very important factor in government for many years. Under Elizabeth, even government by council began to decline, and it was natural for this decline to be first felt in the outlying branches. Instructions continued to be sent occasionally to the north, and sessions were still held by the council there, but whatever work was accomplished seems to have depended largely upon the activity or the personality of the president. It is true that this had to a large extent perhaps been the case in former years, but there was now a very distinct difference. Sometimes there was a vacancy in the presidency for a number of years, and at other times it appears that the president only went to the north for certain periods of the year.⁽¹⁾ Furthermore, there is evidence that by 1569 the council held sessions only in the city of York, and all who had business before it were forced to come there.⁽²⁾

During the early years of the reign of Queen Elizabeth, the only records we have of any communication between the council in the north and the central government, are a statement, sent on

{1} Dom. Cal., 1581-90, p. 362

{2} Quoted from Pollard: Pol. Hist. of Eng., 1547-1603; p. 281
Dom. Cal., Addenda, 1566-79, pp. 60, 65-6

January 29th, 1562, by the Privy Council to the president that the report of a fall in the value of money is false; and a request, made in November, 1569, to assemble and arm the subjects of the north because of a slight rebellion there.⁽¹⁾ There are also evidences of some slight activity on the part of the council. In July, 1578, Lord Burghley received a petition, from a prisoner accused of piracy, requesting that the secretary write to Earl of Sussex, president of the north, for his release.⁽²⁾ Some attention also was probably given to religious affairs, for in 1585, a list of names of recusants was sent to the president with instructions to look out for them.⁽³⁾

About 1580, the Earl of Huntingdon was appointed president and held the office for fifteen years. He is the only president of importance during the reign of Elizabeth, and the council assumes some prominence during his administration because of his personal activity and interest in it. A significant illustration of his efforts to reclaim for the presidency and the council some of its former authority arose in connection with the rebellion of the northern lords in favor of Mary Stuart, during the years 1586 and 1587. President Huntingdon wrote to Secretary Walsingham asking for the right to call upon gentlemen to serve in any emergency, as had been the custom in other times; the northerners objected to taking up arms, for fear they might be expected to do so permanently.⁽⁴⁾ His opinion undoubtedly had weight in the ap-

(1) Dom. Cal., 1547-80; p. 193; Cecil MSS., I, 293-4

(2) Dom. Cal., 1547-80, p. 595

(3) Dom. Cal., 1581-90, p. 297

(4) Dom. Cal., 1581-90, p. 479

pointment of the councillors, when care was taken to fill vacancies, and also in the selection of officials for the border. In 1583, he nominated the border officials, subject of course to the approval of the Privy Council.⁽¹⁾ Again, in 1589, a certain gentleman, Gilbert Lord Talbott, requested Secretary Walsingham to write to President Huntingdon in favor of a young lawyer, Mr. Peter Rosse, a learned member of the Middle Temple and a very honest gentleman.⁽²⁾

The Earl of Huntingdon was very zealous in his endeavor to reduce the north to conformity in religious matters.⁽³⁾ He seems to have been able to interest the Queen in his efforts, for in November, 1582, a commission was issued to the president and the council directing them to inquire into congregations, conventicles, riots, retainers, debts and debtors, assemblies of more than twenty persons, etc., contrary to statute, in the northern counties, and to imprison, fine and punish the same.⁽⁴⁾ The commission further provided that, because the Queen desired the quiet and government of the north parts of England, and intended to continue the council of the north, the president might call together, to assist him in the furtherance of justice and punishment of evil-doers, the nobles, justices, bishops, and other officials there.

After the Earl of Huntingdon's death in 1595, there was a

(1) Dom. Cal., Add., 1580-1625, p. 85

(2) Dom. Cal., 1581-90, p. 597

(3) Dom. Cal., Add., 1580-1625, pp. 11-12

(4) Dom. Cal., Add., 1580-1625, p. 80

vacancy in the presidency for four years, when Lord Burghley was appointed to fill it.⁽¹⁾ Meanwhile the archbishop and council continued to hold sessions and determine causes for the quiet government of the country.⁽²⁾ In April, 1596, while a session was being held in Northumberland, a jury was appointed to look into the decay of the borders.⁽³⁾ At the same session, six prisoners were arraigned for treason, and of these three were condemned and two executed.⁽⁴⁾ In August, 1599, with the appointment of Lord Burghley as president, the Queen wrote that because of the great defection of her subjects in those matters under the jurisdiction of the ecclesiastical commission which she had issued several years before, greater severity and vigilance was made necessary than had of late been used; in order that her people would pay more respect to her laws and institutions.⁽⁵⁾ Consequently during the last few years of Elizabeth's life, the council of the north became once more a comparatively active institution. A rather extensive correspondence was carried on with the government in London, both in the form of reports or of requests for specific instructions on the part of the council; and in the form of orders, appointment of officials, or in the settlement of minor disputes, on the part of the central government. The council acquired much of its old prominence and enjoyed a position of prestige in the north.

(1) Cecil MSS., IX, 317

(2) Ib., V, 499, 506

(3) Ib., VI, 148

(4) Ib.

(5) Ib., IX, 317

THIRD PERIOD

For the first two or three years after the accession of James I, there was no very definite change made in the government of the north, and affairs were carried on very much as before. By 1608, however, there seems to have been some thought of abolishing the council or at least of limiting the power of the presidency, for in that year provision was made for a continuance of their authority as formerly.⁽¹⁾ With a continuation of the authority of the council, a commission was issued to Lord Sheffield, the president, to examine and determine all controversies in the north counties.⁽²⁾ In the exercise of his newly acquired duties, however, he aroused considerable opposition by not consulting the other councillors on all occasions; but it is doubtful whether the council could have accomplished much unless it had a strong president.⁽³⁾ For example, in the matter of hunting for prisoners, the president was forced to conduct the search at his own expense; for the government had difficulty in securing money enough even for its necessary expenses, and there was little that came to the north. In 1614, the former rights and privileges of the council were restored to it.⁽⁴⁾ Two years later even the advisability of giving the president more extensive powers was considered; and when in 1617, Northumberland was reported to be in such a bad state because of corrupt justices supporting the thieves and outlaws, it was suggested that Lord Sheffield take up his

(1) Dom. Cal., 1603-10, p. 466 (3) Ib., p. 577

(2) Ib., p. 531

(4) Dom. Cal., 1611-18, p. 94

residence in that county and have supreme authority there.⁽¹⁾ The suppression of much of the disorders in the border counties which was later accomplished was due to the energy and ability of this president.⁽²⁾

In 1619, Lord Scrope was appointed president, and was granted a renewal of the commission for hearing causes which had been issued to Lord Sheffield.⁽³⁾ In addition to the ordinary cases of burglary, murder, etc., with which the council had regularly to deal, there was considerable trouble over inclosures at this time and the next year the president made a report on them to the Privy Council.⁽⁴⁾ A short time before Lord Scrope became a member of the council, its power in dealing with recusants had been reduced, and the number of such offenders, particularly in Northumberland and Durham, had been steadily growing in consequence. They had by this time become a considerable force, and the council asked for permission to deal with them as had been customary in "the late Queen's time".⁽⁵⁾

When Charles I came to the throne the instructions to the council were renewed, but after a couple of years complaint was made that they were not sufficiently specific.⁽⁶⁾ Little was done about it at the time with the exception of a renewal of some other commissions and the making of a few minor changes in the councillors; but a few months later, in December, 1628, the council was completely reorganized under the presidency of Thomas

(1) Ib., 465

(2) Ib., 536

(3) Dom. Cal., 1619-23, p. 59

(4) Ib., p. 181

(5) Dom. Cal., 1623-5, p. 530

(6) Dom. Cal., 1627-8, p. 319

(1)

Wentworth, who became Earl of Strafford in 1640. A new council was appointed and their powers so extended that the northern council was almost a local Star Chamber; and it became so aggressive that it sometimes clased with the government in Westminster. In 1629, it was necessary for the King to interfere (2) in order to prevent trouble. After a few years the council became such a prominent and dignified body that its members sometimes preferred serving on it to accepting a seat in Parliament. (3)

The new president had not been long in the north, before he encountered opposition on the question of levying soldiers; the people being averse to taking arms. (4) He was, however, successful in the controversy, and during the next few years was frequently called upon by the government to muster trained bands; although on one occasion the persons summoned refused to come without assurance of wages. (5) In many ways the president was given increased responsibility. Questions of trade and commerce in the north were referred to him; and when it became customary to use felons on the voyages of discovery and exploration, he was commissioned, with the aid of his council to determine the length of time they should serve. (6) In August, 1640, when complaints were made to the King, he referred them to the president, saying that he wished them taken before his immediate agent in that district. (7)

When Wentworth was appointed Lord Deputy to Ireland, in 1632, his duties in the north were left to be fulfilled in large part

(1) Ib., 1628-9, p. 418

(4) Ib., 1629-31, p. 38

(2) Ib., p. 585

(5) Ib., 1639-40, p. 572

(3) Ib., 1640, p. 10

(6) Ib., 1631-3, pp. 197, 547

(7) Dom. Cal., 1640, p. 595

by the vice-president, although he still continued in a general way to supervise affairs there.⁽¹⁾ With the outbreak of civil war it became necessary for the council in the north to take a very active part in the campaign. One of the greatest difficulties arose in providing food for the army. In February, 1639, the council at York was ordered to prevent exportations out of the country of all corn, grain, butter, cheese, or victuals fit for the army; and in May, 1640, it was directed to have the justices of the peace set reasonable prices on food to prevent an excessive price being demanded, and also to have the markets moderately supplied.⁽²⁾ In addition to mustering the army and provisioning it the council took an active part in the conduct of the war. Wentworth and his assistants constantly made reports concerning the condition of the soldiers, and respecting the positions and actions of the enemy.⁽³⁾

With the downfall of the King's authority, his chief officials were also deprived of their offices. The Earl of Strafford was impeached and convicted of using his power arbitrarily. Being judged guilty of high treason, he was executed in May, 1641. The parliament of the victorious party, which is known in history as the Long Parliament, made some very decided changes in government. The instruments of oppression and tyranny used by the Stuart kings were suppressed and some of them abolished. The

(1) Ib., 1639, p. 247

(2) Ib., 1638-9, p. 507; 1640, p. 187-8

(3) Ib., 1640, p. 649

most important institutions to suffer were the judicial committees of the Privy Council, which included the Court of the Star Chamber, the Court of High Commission, the Council of Wales and the
⁽¹⁾ Council of the North.

The abuse of government by council made the entire principle objectionable, and because of the odium attached to the Star Chamber, all judicial committees of the Privy Council were abolished. Under the Tudors the council had developed into such a powerful body because it acquired its authority out of the almost unlimited prerogative of the crown. Judging by results, it would seem to have justified its existence. Anarchy had given way to orderly government, and poverty to prosperity; while in addition justice had been in large part secured for the poor and weak as well as for the rich and strong. What was true of the council as a whole was generally true of its many branches. Unfortunately, the councils of James I and Charles I were not made up of men of ability or of men who were chosen primarily for that purpose; while to evade parliament, the judicial committees were given extraordinary powers. The Court of Star Chamber, in particular, was used both as an instrument of ecclesiastical authority and to enforce royal proclamation, or to express contempt for Parliament. Mr. Hyde, the member of Parliament, who introduced the measure for the abolition of the Star Chamber, as well as the other prerogative courts, said that the reasons and motive for its erection had ceased to exist.

(1) 16Chas. I, c. 10

Thus, because it was a part of a complex judicial system, the council of the north was destined to fall. It had served a very useful purpose in securing for the northern counties a substantial form of government, and a prompt and efficient administration of justice. One cannot say that it was infallible; it did make mistakes, and viewed in the light of recent times it was perhaps a very cumbersome institution; but under sixteenth century conditions it proved a great blessing. For the first time in its history, law and order reigned in the north, in place of the almost constant anarchy and border warfare which had existed for centuries. The success of the council is a tribute to the Tudor family, and the great cause for its failure was the misapplication of its authority by the first two Stuarts.

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